

1 MICHAEL D. MURPHY (SBN 224678)
2 mdmurphy@foxrothschild.com
3 MATTHEW FOLLETT (SBN 325481)
4 mfollett@foxrothschild.com
5 MEEGHAN H. TIRTASAPUTRA (SBN 325572)
6 mtirtasaputra@foxrothschild.com
7 JESSICA I. NWASIKE (SBN 343087)
8 jnwasike@foxrothschild.com
9 FOX ROTHSCHILD LLP
10 Constellation Place
11 10250 Constellation Boulevard, Suite 900
12 Los Angeles, California 90067
13 Telephone: 310.598.4150
14 Facsimile: 310.556.9828
15
16 Attorneys for Plaintiff and Counterclaim Defendant
17 SHAKEY'S PIZZA ASIA VENTURES, INC. and
18 Third-Party Defendants CINCO CORPORATION,
19 PC INTERNATIONAL PTE LTD., and SPAVI
20 INTERNATIONAL USA, INC.
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23 UNITED STATES DISTRICT COURT
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25 CENTRAL DISTRICT OF CALIFORNIA
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28 SHAKEY'S PIZZA ASIA VENTURES, INC, a Philippines corporation,

Plaintiff,

v.

PCJV USA, LLC, A Delaware limited liability company; PCI TRADING, LLC, a Delaware limited liability company; GUY KOREN, an individual; POTATO CORNER LA GROUP, LLC, a California limited liability company; NKM CAPITAL GROUP, LLC, a California limited liability company; J & K AMERICANA, LLC, a California limited liability company; J&K LAKEWOOD, LLC, a California limited liability company; J&K VALLEY FAIR, LLC, a California limited liability company; J & K ONTARIO, LLC, a California limited liability company; HLK MILPITAS, LLC, a California, limited liability company; GK CERRITOS, LLC, a California, limited liability company;

Case No. 2:24-CV-04546-SB(AGRx)

The Hon. Stanley Blumenfeld, Jr.

**PLAINTIFF AND
COUNTERCLAIM DEFENDANT
SHAKEY'S PIZZA ASIA
VENTURES, INC. AND THIRD-
PARTY DEFENDANTS'
RESPONSE TO DEFENDANTS'
STATEMENT OF UNDISPUTED
FACTS**

*[Concurrently filed with Memorandum
of Points and Authorities; Appendix of
evidence]*

1 J&K PC TRUCKS, LLC, a California
2 limited liability company; and GK
3 CAPITAL GROUP, LLC, a California
4 limited liability company and does 1
through 100, inclusive,

5 Defendants.

6 PCJV USA, LLC, a Delaware limited
7 liability company; PCI TRADING LLC,
8 a Delaware limited liability company;
9 POTATO CORNER LA GROUP LLC,
a California limited liability company;
GK CAPITAL GROUP, LLC, a
California limited liability company;
NKM CAPITAL GROUP LLC, a
California limited liability company; and
10 GUY KOREN, an individual,

11 Counterclaimants,

12 v.

13 SHAKEY'S PIZZA ASIA VENTURES,
14 INC, a Philippines corporation,

15 Counter Defendant.

16 PCJV USA, LLC, a Delaware limited
17 liability company; PCI TRADING LLC,
18 a Delaware limited liability company;
POTATO CORNER LA GROUP LLC,
19 a California limited liability company;
GK CAPITAL GROUP, LLC, a
California limited liability company;
NKM CAPITAL GROUP LLC, a
20 California limited liability company; and
GUY KOREN, an individual,

21 Third Party Plaintiffs,

22 v.

23 PC INTERNATIONAL PTE LTD., a
24 Singapore business entity; SPAVI
25 INTERNATIONAL USA, INC., a
California corporation; CINCO
26 CORPORATION, a Philippines
corporation; and does 1 through 10,
inclusive,

27 Third Party Defendants.

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE THAT**, Plaintiff hereby submits this Response to
3 Defendants' Statement of Uncontroverted Facts in support of its Opposition to
4 Defendants' Motion for Summary Judgment. Dkt. 309.

SUF No.	Fact	Defendants' Supporting Evidence	Plaintiff's Response
1.	Since 2010, PCJV has been the sole master franchisor of Potato Corner in the United States, and is the only entity ever authorized to sell Potato Corner franchises in the U.S. All U.S. franchisees obtained their rights to use the Potato Corner marks from PCJV, with franchise agreements providing for initial ten-year terms and rights to successive ten-year renewals, extending franchisee rights well into the future. Franchisees agreed that all goodwill inures to PCJV's exclusive	<ul style="list-style-type: none">• Joint Statement of Stipulated Facts, Dkt. 257, Facts 7, 8;• Franchise Agreements: TE 1239, 1248, § 9.1 (goodwill provision; ten-year initial term and renewal rights);• FDDs: TE 1034, 1184;• Declaration of Erlinda Bartolome ("Bartolome Decl.") ¶¶ 7–10, 32(a)-(b);• Declaration of Barry Kurtz ("Kurtz Decl.") ¶¶ 8–10;• Declaration of Adam Mandel ("Mandel Decl.") ¶¶ 5–8;• Declaration of Guy Koren ("G. Koren Decl.") ¶ 20.a.	Disputed and immaterial. This purported SUF cobbles together a variety of allegations and "spin" on facts that does not bear on the question presented: whether, after May 31, 2024 Plaintiff consented to the use by PCJV (and its owners and managers and affiliates – i.e. all Defendants) of the trademarks and other elements of the Potato Corner brand. The various subparts of this SUF do not support the fact described. For example, the term "authorized" is unclear as it is not specific as to whose authority is being referred to. If "authorized" refers to the authority granted from the owner of the brand, PCJV has not had the authority during the entire period mentioned (2010 through the present), as Plaintiffs withdrew any authority on May 31, 2024 when it terminated the license. Separately, Plaintiff has authorized SPAVI International USA, Inc. and its subsidiary to sell franchises, and that process has begun and will begin in additional states over the next few

1	benefit.	months. (This also implicated 2 authority of the states, which 3 have already been asked to 4 approve the SPAVI originated 5 franchises for Potato Corner) 6 Finally, another entity was 7 authorized as a licensee with 8 rights to sublicense in the San 9 Francisco Bay Area before PCJV. 10 That PCJV had authority prior to 11 May 31, 2024 and subsequently 12 continued to offer franchises that 13 represented to franchisees that it 14 possessed the authority to sell 15 franchises (TE 1248) does not 16 prove that there was consent, as, 17 with respect to TE 1248, there 18 was no consent, such that the sale 19 of franchises to that third party 20 resembles the comedic bit 21 regarding a stranger selling the 22 Brooklyn bridge. The fact that 23 franchisees are being asked in 24 agreements not approved by 25 Plaintiff to stipulate that their 26 improvement to the goodwill inures to PCJV's benefit, and not Plaintiff, despite the clear directive of 15 USC 1550 does not mean Cinco or Plaintiff consented to this stipulation in violation of the Lanham Act. Also, Koren has represented over and over that the fake license agreement is binding and enforceable, and Section 4 contradicts this SUF. (TE 11, § 4.)
27		Evidentiary Objection 1: Bartolome Decl. ¶7: Fails to

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1	duration of the governance rights
2	and obligations over PCJV –
3	which has nothing to do with this
4	action. There has never been any
5	written agreement executed by
6	licensee and licensor as to the
7	duration of the license to use the
8	Potato Corner brand or its
9	termination. It is true that the
10	agreement to agree contained in
11	the AJVA does not provide for a
12	length for the future license
13	agreement, which, under
14	California law, means it is
15	terminable at will. Finally, the
16	Declarations submitted in support
17	of this SUF do not support these
18	assertions and, indeed, are
19	objectionable because they do not
20	comply with this Court's Order
21	giving leave to file these Motions,
22	as the Partis were directed to rely
23	on trial exhibits and had a strict
24	page length and these
25	declarations effectively served to
26	expand the page length by giving
27	more room for the brief and by
28	sending the reader to documents
	outside the brief for the
	(purported) factual background.
	Also, specifically the declaration
	sections cited herein are
	specifically objectionable as
	follows:
	 Evidentiary Objection 10:
	Bartolome Decl. ¶ 11 at pp. 4:1-3 is objectionable because it fails
	to provide evidence of personal
	knowledge of what Cinco

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intended or what Cinco's contribution was to be (FRE 602); and is providing evidence designed to interpret an integrated contract in violation of the governing parol evidence rule rendering it irrelevant (FRE 401); and, finally, is offering opinions not based on personal knowledge or that are expert opinions for which she is not qualified (FRE, 701, 702, 602);

Evidentiary Objection 11:
Bartolome Decl. at pp 4:22-27
(¶ 14) is objectionable because it summarizes written documents in violation of the secondary evidence rule (FRE 1004); is providing evidence designed to interpret an integrated contract in violation of the governing parol evidence rule rendering it irrelevant (FRE 401); and, finally, is offering opinions not based on personal knowledge or that are expert opinions for which she is not qualified (FRE, 701, 702, 602);
9–15, 32(c)

Evidentiary Objection 12:
Bartolome Decl. at pp 5:1-5.
¶ 15) is objectionable because it is offering legal conclusions and argument in violation of (FRE 704); summarizes written documents in violation of the secondary evidence rule (FRE 1004); is providing evidence designed to interpret an integrated

1	contract in violation of the 2 governing parol evidence rule 3 rendering it irrelevant (FRE 401); 4 and, finally, is offering opinions 5 not based on personal knowledge 6 or that are expert opinions for 7 which she is not qualified (FRE, 8 701, 702, 602); 9–15, 32(c)
8	Evidentiary Objection 13: Bartolome Decl. at pp 10:8-10, ¶ 32) is objectionable because it 9 is offering legal conclusions and 10 argument and even making 11 general statements about 12 “Governing Agreements” 13 designed to get into evidence that 14 all of the “Governing 15 Agreements” are actually 16 agreements, were live, or bound 17 SPAVI in violation of (FRE 704); 18 summarizes written documents in 19 violation of the secondary 20 evidence rule (FRE 1004); is 21 providing evidence designed to 22 interpret an integrated contract in 23 violation of the governing parol 24 evidence rule rendering it 25 irrelevant (FRE 401); and, finally, 26 is offering opinions not based on 27 personal knowledge or that are 28 expert opinions for which she is 9–15, 32(c)
26	Evidentiary Objection 14: Mandel Decl. ¶ 9 Offers opinions not based on personal knowledge or that are

		<p>expert opinions for which he is not qualified (FRE, 701, 702, 602)</p> <p>Evidentiary Objection 15: Mandel Decl. ¶ 10</p> <p>Fails to provide personal knowledge for statement any statement in the paragraph(FRE 602); Attempts to introduce expert opinion for which he is not qualified (FRE 701, 702)</p> <p>Evidentiary Objection 16: Mandel Decl. ¶ 12: Object to the extent that it lacks personal knowledge (FRE 602)</p> <p>Evidentiary Objection 17: G. Koren Dec. ¶ 20.b.Bartolom: Attempts to provide evidence designed to interpret an integrated contract in violation of the governing parol evidence rule rendering it irrelevant (FRE 401); Attempts to introduce expert opinion for which he is not qualified (FRE 701, 702)</p> <p>Plaintiff's Supporting Evidence TE 1576 (Koren and PCJV allegations in Prior Governance Action at ¶ 68 on p. 24:1-9) <u>TE 1135</u>, p. 13 (Prior Governance Court Ruling that included a conclusion that the AJVA and</p>
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1			enforceable and believes it is, because the agreement confirms that as he also testified in this case that although Cinco did not sign, he has treated it as enforceable and believes Cinco has as well. That agreement says: all of the benefits and goodwill inure to the licensor and their rights (franchisees rights) flow from licensor and licensor only (TE 11, § 4). Also, in the Prior Governance Action, PCJV alleged, and the Trial Court adopted as a conclusion that the Amended Joint Venture Agreement amended, and thus superseded the Joint Venture Agreement and the so-called LLC Agreement. This SUF is intentionally vague as to the last clause, in that it seeks to present this fact as suggesting that these agreements provided for “indefinite duration” of an intellectual property license and termination limitations on an intellectual property license. Neither the AJVA (nor the JVA or LLC Agreement for that matter) constitute a license, as at best, they provide for an agreement to agree on a future license. The reference to duration and termination rights relate to duration of the governance rights and obligations over PCJV – which has nothing to do with this action. There has never been any written agreement executed by licensee and licensor as to the
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28		<p>duration of the license to use the Potato Corner brand or its termination. It is true that the agreement to agree contained in the AJVA does not provide for a length for the future license agreement, which, under California law, means it is terminable at will.</p> <p>Evidentiary Objection 18: Bartolome Decl. ¶ 31: Attempts to introduce expert opinion for which she is not qualified (FRE 701, 702); Hearsay to the extent that no business records exception has been established (FRE 802); Summarizes a written document in violation of the secondary evidence rule (FRE 1004); Improper legal conclusion (FRE 704)</p> <p>Evidentiary Objection 19: G. Koren Decl. ¶ 20.c.: Attempts to introduce expert opinion for which she is not qualified (FRE 701, 702); Hearsay to the extent that no business records exception has been established (FRE 802); Summarizes a written document in violation of the secondary evidence rule (FRE 1004); Improper legal conclusion (FRE 704)</p> <p>Plaintiff's Supporting Evidence</p> <p>Plaintiff's Supporting Evidence</p>
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1	regulatory obligations, supply chain contracts, and related businesses, as well as any contractual or fiduciary obligations owed to or by PCJV. As a result, Plaintiff did not acquire the goodwill of the U.S. franchised business.	32(e); • Kurtz Decl. ¶ 12; • G. Koren Decl. ¶ 20.d.	none of the evidence cited establishes that Plaintiff is not interested in franchise agreements, regulatory obligations, supply chain contracts, etc. Plaintiff is doing this on its own because it wants nothing to do with Koren, and, as such, it is building these relationships and tools on its own. The deeds themselves show goodwill was transferred, which is a presumption that Defendant must rebut and they have not. Nevertheless, Plaintiff has been laser focused on producing a substantially similar products or services under the PC-IP and the service is substantially similar to Cinco; and the marks used in commerce will be in a manner consistent with its prior use, as well as the preservation of the mark's commercial impression.
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Evidentiary Objection 20:
Bartolome Decl. ¶ 32(e): Fails to provide personal knowledge regarding Cinco's purported treatment (602); Attempts to introduce an expert opinion for which she is not qualified (FRE 701, 702); Attempts to provide evidence designed to interpret an integrated contract in violation of the governing parol evidence rule rendering it irrelevant (FRE 401); Hearsay to the extent that no business records exception has been established (FRE 802)

			<p>Evidentiary Objection 21: Kurtz Decl. ¶ 12: Attempts to introduce expert opinion for which he is not qualified (FRE 701, 702); Attempts to provide evidence designed to interpret an integrated contract in violation of the governing parol evidence rule rendering it irrelevant (FRE 401); Improper legal conclusion (FRE 704)</p> <p>Evidentiary Objection 22: G. Koren Decl. ¶ 20.d: Fails to provide personal knowledge for his statement (FRE 602); Attempts to introduce expert opinion for which he is not qualified (FRE 701, 702); Improper legal conclusion (FRE 704); Attempts to provide evidence designed to interpret an integrated contract in violation of the governing parol evidence rule rendering it irrelevant (FRE 401)</p> <p>Plaintiff's Supporting Evidence</p> <p><u>TE 4</u></p> <p><u>TE 6</u></p> <p><u>TE 1551</u> at pp. 0126-0131;</p> <p><u>TE 50</u>, ¶ 2</p> <p><u>TE 48</u>, at ¶¶ 2-4, 9-12, 28, 30-31, 33-34, 66</p> <p><u>TE 47</u>, at ¶¶ 16-21, 30, 37-41, 60, 71-74</p> <p><u>TE 1379</u>, p. 7 ¶ 15</p>
27	28	5. The Cinco Parties' releases and	• Settlement Agreement and Membership Disputed and Not Supported by the Evidence.

1	settlement agreements, negotiated and executed with counsel who also represents Plaintiff, expressly bind successors, subsidiaries, affiliates, and assigns, and released all known and unknown licensing and related claims.	Interest Purchase Agreement, TE 1172, Recitals E, G, H and §§ 4.1, 5, 12; • Bartolome Decl. ¶ 32(e); • Kurtz Decl. ¶ 12; • Declaration of Alon Koren ¶ 3; • G. Koren Decl. ¶ 20.e.	This deal was in 2024, two years after SPAVI acquired the brand. By definition SPAVI is not a successor, as the SPAVI transaction preceded the deal. You cannot go back in time and bind prior people you transacted with unless they are an extension of Cinco, and SPAVI is not, and none of the evidence establishes that SPAVI is in any way connected as an affiliate, etc. Moreover, the acquisition of IP from Cinco does not make it a successor except as to things that bind the IP, and there is nothing that Cinco was selling in the settlement that was related to IP. The two are apples and oranges. The seller, PCI, sold its equity in PCJV to GK Capital. As a member of PCJV, PCI had no rights to or obligations arising from PCJV's business such that, PCI did not need a license to the Potato Corner IP to be a member, which is the source of, or representation, that no license was needed. Moreover, PCI had no trademark or IP related claims against anyone, and, as such, was not releasing any such claims. The settlement and sake of equity had nothing to do with intellectual property.
25			Evidentiary Objection 23: Declaration of Alon Koren ¶ 3 Fails to provide personal knowledge for statement that

			<p>1 SPAVI acquired Highfive 2 Corporation or its “relevant 3 operations. (FRE 602)</p> <p>4 Evidentiary Objection 24: G. 5 Koren Decl. ¶ 6 20.e: Attempts to introduce expert 7 opinion for which he is not 8 qualified (FRE 701, 702); 9 Attempts to provide evidence 10 designed to interpret an integrated 11 contract in violation of the 12 governing parol evidence rule 13 rendering it irrelevant (FRE 401); 14 Improper legal conclusion (FRE 15 704); Summarizes a written 16 document in violation of the 17 secondary evidence rule (FRE 18 1004);</p> <p>19 Plaintiff's Supporting Evidence</p> <p>20 TE 4 21 TE 6 22 TE 1172 23 TE 46 at ¶¶ 13-16, 58-70</p>
6.	Following the alleged assignment(s) to Plaintiff, PCJV continued operating as master franchisor.	<ul style="list-style-type: none">• Franchise Agreements, TE 1239, 1248;• Bartolome Declaration ¶¶ 34–35;• Kurtz Declaration ¶¶ 10–12;• G. Koren Decl. ¶ 20.f.	<p>Disputed and Immaterial and not supported by evidence.</p> <p>The testimony that Koren does not Dispute is that immediately after the sale, SPAVI and Koren were engage in a negotiation over the terms of a license, from which one can infer if there is no deal, there is no license, and it was clear at all times -that this was a new era and Koren would not get this for free anymore.</p>

			<p>Evidentiary Objection 25: Kurtz Declaration ¶ 11: Attempts to introduce expert opinion for which he is not qualified (FRE 701, 702); Attempts to provide evidence designed to interpret an integrated contract in violation of the governing parol evidence rule rendering it irrelevant (FRE 401); Hearsay to the extent that no business records exception has been established (FRE 802); Summarizes a written document in violation of the secondary evidence rule (FRE 1004); Improper legal conclusion (FRE 704)</p> <p>Evidentiary Objection 26: G. Koren Decl. ¶ 20.f: Attempts to introduce expert opinion for which he is not qualified (FRE 701, 702); Attempts to provide evidence designed to interpret an integrated contract in violation of the governing parol evidence rule rendering it irrelevant (FRE 401); Improper legal conclusion (FRE 704); Summarizes a written document in violation of the secondary evidence rule (FRE 1004)</p> <p>Plaintiff's Supporting Evidence</p> <p>TE 50, ¶¶ 10-17 <u>TE 48</u>, at ¶¶ 2-4, 30-75 <u>TE 47</u>, at ¶¶ 31-80 TE 1379, p. 7 ¶ 15</p>
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Dated: September 30, 2025

FOX ROTHSCHILD LLP

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/s/ Michael D. Murphy

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Michael D. Murphy

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Matthew Follett

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Meeghan H. Tirtasaputra

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Attorneys for Plaintiff and Counterclaim

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Defendant SHAKEY'S PIZZA ASIA

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VENTURES, INC. and Third Party

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Defendants CINCO CORPORATION,

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PC INTERNATIONAL PTE LTD., and

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SPAVI INTERNATIONAL USA, INC.

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CERTIFICATE OF SERVICE

The undersigned certifies that, on September 30, 2025, the foregoing document was electronically filed with the Clerk of the Court for the United States District Court, Central District of California, using the Court's ECF filing system. I further certify that all counsel for all parties to this action are registered CM/ECF user and that service will be accomplished by the CM/ECF system.

I certify under penalty of perjury that the foregoing is true and correct.

Dated: September 30, 2025

FOX ROTHSCHILD LLP

/s/ Michael D. Murphy

Michael D. Murphy

Attorneys for Plaintiff SHAKEY'S
PIZZA ASIA VENTURES, INC.